

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

VINCENT G. KENNEDY x

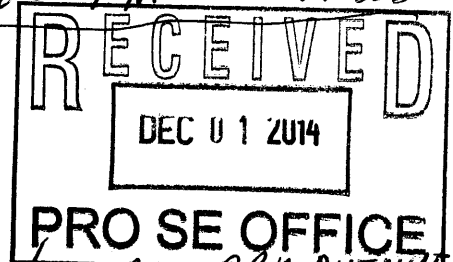
Plaintiff,  
- against -

NYPD PROPERTY CLERK: P.D. COLON  
AND NYC

AMENDED  
COMPLAINT

14-CV-6802 (SLT)  
(LB)

NO JURY TRIAL DEMANDED



I. Parties:

Plaintiff: VINCENT G. KENNEDY resides at 164 SARATOGA AVENUE  
BROOKLYN, N.Y. 11212

Defendant: NYPD PROPERTY CLERK: P.D. COLON resides at 11 FRONT ST.  
BROOKLYN, N.Y.

Defendant: NYC represented by Corporation Counsel.

II. The jurisdiction of the Court is invoked pursuant to 5 USC, section  
8331 see exhibit-2

III. Statement of Claim: See attachment for STATEMENT OF  
CLAIM

IV. Remedy: US BUREAU OF PRISONS SHOULD BE INCLUDED AS LAW ENFORCEMENT  
ENFORCEMENT OFFICERS. See exhibit-6. AND \$200,000  
FOR UNLAWFUL ARREST, AND I SHOULD RETRIEVED MY  
WEAPONS.

12/1/2014

Vincent G. Kennedy  
718-922-1457/2092

19 VgK  
November 17, 2014

To Whom It May Concern,

On August 18th, 2014 I made a phone call to 911 (police emergency), because my youngest son was reacting to my decision to have one of his friends leave my house. Two officers arrived, and eventually told me that I should not get into any problems with my children, because they are younger than me and they can take me out. Then I was asked if I had any weapons in the house. Eventually, I was handcuffed despite I showed them my retired identification. I then led them to where I had two guns. On October 24th, 2014 there was a refusal to return me my firearms.

Sincerely,

Vincent Kennedy

groovyready@aol.com

P.S. See exhibits 1,2,3,4,5 & 6 for your perusal.

+7



**U.S. Department of Justice**

**Federal Bureau of Prisons**

***Metropolitan Correctional Center***

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*150 Park Row  
New York, NY 10007*

October 22, 2014

To Whom It May Concern:

Please be advised, Vincent Kennedy was employed by the Department of Justice, Federal Bureau of Prisons, at the Metropolitan Correctional Center in New York from February 11, 1990, through May 31, 2013. Mr. Kennedy retired from the position of GL-0007-08, Senior Officer Specialist of May 31, 2013. This was a full time position.

As codified in 5 USC § 8331, employees of the Federal Bureau of Prisons meet the definition of law enforcement officer.

Sincerely,

A handwritten signature in black ink, appearing to read "Melisa Hess", is written over a faint, circular official stamp.

Melisa Hess

Human Resources Specialist

EXHIBIT-1

20) "law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this paragraph, "detention" includes the duties of—

(A) employees of the Bureau of Prisons and Federal Prison Industries, Incorporated;

(B) employees of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated;

(C) employees in the field service at Army or Navy disciplinary barracks or at confinement and rehabilitation facilities operated by any of the armed forces; and

(D) employees of the Department of Corrections of the District of Columbia, its industries and utilities;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniformed Code of Military Justice (chapter 47 (/uscode/text/10/subtitle-A/part-II/chapter-47) of title 10 (/uscode/text/10)) require frequent (as determined by the appropriate administrative authority with the concurrence of the Office) direct contact with these individuals in their detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation;

EXHIBIT-2

## H.R. 218 (The Law Enforcement Officers Safety Act) and the New York State Firearms Law



The State of New York last week passed sweeping new state level legislation that greatly restricts the ability to own or carry certain firearms in that state. Regrettably, the Governor and the proponents of this legislation, in their haste to push this law through the State Assembly, failed to take into account the legitimate needs of active and retired law enforcement officers to defend themselves and the public. NAPO worked with its New York groups, particularly the NYPD Detectives Endowment Association, while this bill was in the works, in an effort to prevent the new law from harming police officers, but those efforts unfortunately failed. A question then arises, as to whether or not the federal Law Enforcement Officers Safety Act (18 U.S.c. §§ 926B et seq.) (commonly known as "H.R. 218" from its original Bill number) provides protection for active and/or retired officers who are in New York State.

It is important to note that the federal law, H.R. 218, DOES provide SOME protection for officers, both active and retired. This is because the federal law applies "Notwithstanding any other provision of the law of any State or any political subdivision thereof .." (18 U.S.C. §926B(a)) HOWEVER, that protection is LIMITED by the terms of the federal statute, as far as what is covered. Thus, when an officer (active or retired) carries a firearm pursuant to the terms of H.R. 218, the FIREARM itself is protected, (18 U.S.c. §926B(e)(1)) as well as any AMMUNITION not prohibited by FEDERAL law (18 U.S.C. §926B(e)(2)) So, for example, hollow points are O.K., even if the locality normally prohibits them. BUT the language of H.R. 218 is silent as to MAGAZINES. And thus provides no protection under federal law for state or local officers or deputies who wish to rely on it to overcome regulations like the new New York law which prohibits magazines of greater than 7 rounds capacity. (See 18 U.S.c. §927, Effect on State Law) Also, it is important to remember that even under H.R. 218, the right to carry a firearm is not universal. H.R. 218 overrides State and Local laws, not federal ones, so it gives no right to carry a firearm on a commercial airliner, for example. Also, H.R. 218 by its own terms "shall not be construed to supersede or limit the laws of any State that- (1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or (2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park." (18 U.S.c. §926B(b)) So a local government can still control the right to carry on its own local governmental property (as opposed to public spaces), and a private citizen or shopkeeper can still control who can carry on his or her own private property.

Last Updated (Sunday, 22 September 2013 09:32)

EXHIBIT-3

**NOTICE OF AMENDMENT TO NY SAFE ACT**  
**AFFECTING RETIRED LAW ENFORCEMENT OFFICERS**

On July 5, 2013, Governor Cuomo signed an amendment to the NY SAFE Act that grants qualified retired law enforcement officers an exemption for large capacity magazine restrictions.

Effective immediately, qualified retired New York or federal law enforcement officers (as defined in the NYS Penal Law\*) are exempt from prosecution for violating large capacity magazine restrictions for guns that were issued or purchased in the course of official duties and owned at the time of retirement, or comparable replacements. Other guns not owned in the course of official duties prior to retirement are not exempt. Only exempt firearms can contain magazines that have a capacity of more than ten (10), or can have more than seven (7) in the magazine when not at a range.

In order to maintain this exemption, retired law enforcement officers must meet qualification using standards for active law enforcement officers every three (3) years, and if retired more than eighteen months, they must qualify within eighteen months of enactment of this law (i.e. before January 5, 2015).

Although the amendment also allows qualified retired law enforcement officers to own assault weapons under limited circumstances if they are registered with the State Police, assault weapons cannot lawfully be possessed in New York City because of a separate prohibition in the New York City Administrative Code.

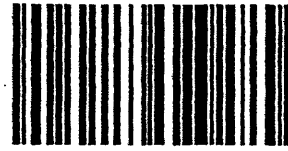
\* The definition of "qualified retired New York or federal law enforcement officer" is contained in PL Section 265.00(25), and includes among other things that the retiree has separated in good standing from a public agency located in New York State where they were employed for at least five years as a police officer, peace officer, or federal law enforcement officer, as those terms are defined in the Criminal Procedure Law, and that they are not otherwise prohibited from possessing a firearm.

EXHIBIT-4





**NYPDPETS** PROPERTY and EVIDENCE  
TRACKING SYSTEM  
**Property Clerk Invoice**  
PD 521-141(Rev. 11/09)

Invoice No. **3000414660**Invoicing Command  
**73RD PCT.**Invoice Status  
**OPEN**Invoice Date  
**08/18/2014**Property Type  
**FIREARM**Property Category  
**SAFEKEEPING**

Officers	Rank	Name	Tax No.	Command	
Invoicing	POM	MIRANDA, JOEL	955201	PATROL BORO BKL	OCME-EL No.
Arresting	N/A				OCME-FB No.
Investigating	N/A				Police Lab Evid. Cnt. No.
Det Squad Supervisor	N/A				Det Sqd. Case No. N/A
CSU/ECT Processing	N/A				CSU/ECT Run No. N/A

Item	Total QTY	Article(s)	PETS No.	Pkg. QTY	Disposition
1	1	PISTOL MAKE: GLOCK INC MODEL: 26 CALIBER: 9MM FIREARM COLOR: BLACK SERIAL NO. EXISTS: YES SERIAL NO.: HBH838 LICENSE ACTIVE: NO LICENSEE FIRST NAME: VINCENT LICENSEE MIDDLE NAME: G LICENSEE LAST NAME: KENNEDY LICENSEE HOUSE NUMBER: 7189221857 LICENSEE STREET: 764 SARATOGA AVE LICENSEE CITY: BROOKLYN LICENSEE POST CODE: 11212	1202031099	1	
2	1	REVOLVER MAKE: SMITH & WESSON MODEL: 38 SPECIAL CALIBER: .38 FIREARM COLOR: BLACK SERIAL NO. EXISTS: YES SERIAL NO.: 44J375 LICENSE ACTIVE: NO LICENSEE FIRST NAME: VINCENT LICENSEE MIDDLE NAME: G LICENSEE LAST NAME: KENNEDY LICENSEE HOUSE NUMBER: 764 LICENSEE STREET: SARATOGA AVE LICENSEE CITY: BROOKLYN LICENSEE POST CODE: 11212 LICENSEE HOME TELEPHONE NUMBER 7189221857	1202031099	1	

## REMARKS:

955201 08/18/2014 12:46 : LISTED PROPERTY VOUCHERED FOR SAFEKEEPING. DO NOT RETURN WITHOUT AUTHORIZATION OF LICENSE

Invoice No. **3000414660**

Property Clerk Copy

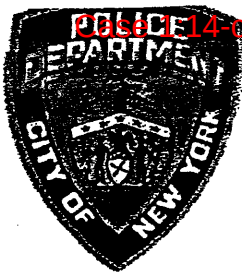
printed: 10/24/2014 10:56

PCD Storage No.

**14K044648**

Page No. 1 of 2

EXHIBIT-5



14-cv-06802-SLT-LB Document 5 Filed 12/01/14 Page 3 of 3 PageID #: 32  
**New York City Police Department**

**Pistol License Division**

One Police Plaza Room 110A

New York, NY 10038

Office- (646) 610-5536

Fax- (646) 610-6399

SECTION 120  
SUBDIVISION 34  
(J)

**LAW ENFORCEMENT RETIREES**

Applicants for handgun license must submit the following documents.

- ① One (1) application (PD-643-041), must be TYPWRITTEN.
- ② Submit (1) recent color photographs (1 ½ X 1 ½), front view with application.
- ③ Submit fee of \$91.50 in the form of a money order (Postal or U.S. Bank) or credit card, non-refundable, payable to the New York City Police Department (License Division) for fingerprints. This fee applies to all applicants.
- 4) Retirees from Federal Law Enforcement Agencies and retirees, who don't have Police Officer status as defined by Section 1.20 Subdivision 34 of the Criminal Procedure Law, must also submit fee of \$340.00 in the form of a Postal or U.S. Bank money order/credit card payable to the New York City Police Department. (Application Fee) Cash will not be accepted.
- 5) Complete the enclosed "Firearm Removal" for ANY reason form, the Affidavit of Familiarity with Rules and Laws form, the Acknowledgement of Person Agreeing to Safeguard Firearms form and the Co-Habitant form.
- 6) **NYPD retirees only:** A Pistol License Inquiry Response Form (PD- 643-155) retirees may obtain this form from the Pension Section (233 Broadway 19<sup>th</sup> Floor New York, NY).
- 7) Retirees from other law enforcement agencies must submit their ID Card stamp "RETIRED" and a certificate of service with a medical endorsement from their agency. The certificate must be on agency letterhead, must be signed by the agency head or a designated representative and must contain the following information:
  - Name, Rank and Social Security #
  - Date of Appointment & Date of Retirement
  - Certification that the applicant has no record of mental illness and was authorized by the agency to carry firearm at time of retirement.
  - A Statement that the applicant's firearm(s) were never removed for medical or departmental reasons.
  - That the applicant is not under investigation by the agency.
  - That the applicant has no disciplinary action pending.
  - That there are no reasons why the handgun license should not be issued to the applicant.

The letter must also state the make, model, caliber and serial number of the weapon(s) owned or possessed by the applicant and indicate the manner in which the weapon(s) is/are being safeguarded, pending issuance of license (Gun Receipt).

- ⑦ A current utility bill and a NYS Driver's License registered to your home address must be submitted.
- 8) Applicants residing outside of NYC MUST have a county license prior to submitting their application.
- 9) Report to the License Division, Room 110A, 1<sup>st</sup> Floor, One Police Plaza between 0830 and 1600 hours for processing. Telephone # (646)610-5536.

EXHIBIT-6